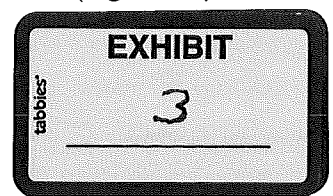


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<p style="text-align: right;">Page 1</p> <p>1 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION</p> <p>2 St. Louis District Office</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 IN RE: CYNTHIA MOORE vs. DEPARTMENT OF JUSTICE</p> <p>8</p> <p>9 EEOC CASE NO. 560-2010-00168X</p> <p>10 AGENCY NO. OBD-2008-00632</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 TRANSCRIPT OF PROCEEDINGS</p> <p>16 MAY 8 & 9, 2012</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (Hearing start time: 8:10 a.m.)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1 TONJA NERO-BRITT</p> <p>2 Direct Examination by Mr. Garfield Page 223</p> <p>3 Cross Examination by Mr. Bridenhagen Page 237</p> <p>4 DANIEL CASAMATTA</p> <p>5 Direct Examination by Mr. Garfield Page 240</p> <p>6 Cross Examination by Mr. Bridenhagen Page 272</p> <p>7 Redirect Examination by Mr. Garfield Page 282</p> <p>8 Recross Examination by Mr. Bridenhagen Page 290</p> <p>9 Further Redirect Examination by Mr. Garfield Page 292</p> <p>10 NANCY GARGULA</p> <p>11 Direct Examination by Mr. Garfield Page 293</p> <p>12 Cross Examination by Mr. Bridenhagen Page 357</p> <p>13 Redirect Examination by Mr. Garfield Page 384</p> <p>14</p> <p>15</p> <p>16 (Day one is page 7 through page 237. Day two is page 238</p> <p>17 through page 393.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 INDEX OF WITNESSES</p> <p>2</p> <p>3 CYNTHIA MOORE</p> <p>4 Direct Examination by Mr. Garfield Page 9</p> <p>5 Cross Examination by Mr. Bridenhagen Page 72</p> <p>6 Redirect Examination by Mr. Garfield Page 77</p> <p>7 Rebuttal Direct Examination by Mr. Garfield Page 390</p> <p>8 CINDY BECK</p> <p>9 Direct Examination by Mr. Garfield Page 78</p> <p>10 Cross Examination by Mr. Bridenhagen Page 98</p> <p>11 Redirect Examination by Mr. Garfield Page 106</p> <p>12 Rebuttal Examination by Mr. Bridenhagen Page 142</p> <p>13 Rebuttal Examination by Mr. Garfield Page 145</p> <p>14 ROBERT NEWTON</p> <p>15 Direct Examination by Mr. Mr. Garfield Page 110</p> <p>16 Cross Examination by Mr. Bridenhagen Page 137</p> <p>17 Redirect Examination by Mr. Garfield Page 141</p> <p>18 MARTHA HALLOWELL</p> <p>19 Direct Examination by Mr. Bridenhagen Page 146</p> <p>20 Cross Examination by Mr. Garfield Page 159</p> <p>21 JOHN CHURCH</p> <p>22 Direct Examination by Mr. Bridenhagen Page 166</p> <p>23 Cross Examination by Mr. Garfield Page 196</p> <p>24 Redirect Examination by Mr. Bridenhagen Page 219</p> <p>25 Recross Examination by Mr. Garfield Page 221</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS</p> <p>2</p> <p>3 Complainant's Exhibit C-3 Page 33</p> <p>4 Complainant's Exhibit C-6 Page 81</p> <p>5 Complainant's Exhibit C-8 Page 39</p> <p>6 Complainant's Exhibit C-9 Page 57</p> <p>7 Complainant's Exhibit C-16 Page 69</p> <p>8 Complainant's Exhibit C-20 Page 63</p> <p>9 Complainant's Exhibit C-21 Page 65</p> <p>10 Complainant's Exhibit C-22 Page 195</p> <p>11 Complainant's Exhibit C-25 Page 64</p> <p>12 Complainant's Exhibit C-26 Page 33</p> <p>13 Complainant's Exhibit C-27 Page 93</p> <p>14</p> <p>15 Agency Exhibit 4 Page 155</p> <p>16 Agency Exhibit 6 Page 100</p> <p>17 Agency Exhibit 7 Page 156</p> <p>18 Agency Exhibit 8 Page 121</p> <p>19 Agency Exhibit 9 Page 227</p> <p>20</p> <p>21 (All exhibits were retained by Judge Niehoff. The index</p> <p>22 below reflects Agency or Complainant exhibits that were</p> <p>23 identified during the proceeding).</p> <p>24</p> <p>25</p>

1 (Pages 1 to 4)



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<p style="text-align: right;">Page 357</p> <p>1 A She received an overall rating of excellent.</p> <p>2 MR. GARFIELD: I'm done with my direct.</p> <p>3 JUDGE NIEHOFF: Let's take a two minute restroom</p> <p>4 break.</p> <p>5 (Whereupon there was a brief recess).</p> <p>6 JUDGE NIEHOFF: We're back on the record. And I'll</p> <p>7 remind you that you're still under oath.</p> <p>8 THE WITNESS: Okay.</p> <p>9 CROSS EXAMINATION</p> <p>10 BY MR. BRIDENHAGEN:</p> <p>11 Q Miss Gargula, I'd like you to pick up what I think</p> <p>12 is Exhibit C-9 in front of you.</p> <p>13 A Yes.</p> <p>14 Q You are familiar with this document?</p> <p>15 A Yes, I am.</p> <p>16 Q Let me direct you to your email to Jeff Miller</p> <p>17 dated Sunday, April 15th?</p> <p>18 A Okay.</p> <p>19 Q 2007.</p> <p>20 A All right.</p> <p>21 Q And specifically your statement it's -- what is</p> <p>22 it -- Amy Carpenter is very sharp, but has only been with us</p> <p>23 since last October?</p> <p>24 A Yes.</p> <p>25 Q By that sentence did you mean to say that Amy was</p>	<p style="text-align: right;">Page 359</p> <p>1 JUDGE NIEHOFF: What did you mean by Amy Carpenter</p> <p>2 is very sharp, but has only been here since last October.</p> <p>3 There is no other analyst. What did you mean by all that</p> <p>4 about Amy Carpenter?</p> <p>5 A Simply that Amy had not been with us long enough to</p> <p>6 be able at that point in time to necessarily do the duties.</p> <p>7 She was very sharp obviously, but I felt there was a need for</p> <p>8 early recruitment.</p> <p>9 Q (By Mr. Bridenhagen) Of some -- so it's not -- I</p> <p>10 got what you said. Never mind.</p> <p>11 JUDGE NIEHOFF: What do you mean by recruitment?</p> <p>12 A Recruitment involves authority from the Executive</p> <p>13 Office to advertise for a vacancy, to receive applications,</p> <p>14 to interview, to select a nominee, to have them go through</p> <p>15 the background investigation, the drug test and ultimately</p> <p>16 hopefully be offered a position.</p> <p>17 JUDGE NIEHOFF: But you don't mean recruitment like</p> <p>18 a football recruiter where you're going to go out and try to</p> <p>19 find someone?</p> <p>20 A No, recruitment is the official term within the</p> <p>21 Department of Justice that refers to filling a position</p> <p>22 vacancy.</p> <p>23 JUDGE NIEHOFF: Thank you.</p> <p>24 A (By Mr. Bridenhagen) I'd like to talk about when</p> <p>25 Amy -- at the time Amy was learning the standing trustee</p>
<p style="text-align: right;">Page 358</p> <p>1 at that time capable of doing of, you know, doing John</p> <p>2 Church's job?</p> <p>3 MR. GARFIELD: Objection; he's leading.</p> <p>4 MR. BRIDENHAGEN: All right.</p> <p>5 Q (By Mr. Bridenhagen) What did you mean --</p> <p>6 JUDGE NIEHOFF: Are you going to rephrase the</p> <p>7 question?</p> <p>8 MR. BRIDENHAGEN: Yes, I'm going to.</p> <p>9 Q (By Mr. Bridenhagen) What did you mean to say</p> <p>10 about Miss Carpenter's abilities to do the standing trustee</p> <p>11 coordinator work in that statement?</p> <p>12 A I'm not sure I understand the question. This was</p> <p>13 the forward of Mr. Church's notification to me that he had</p> <p>14 finally selected his retirement date.</p> <p>15 Q Yes.</p> <p>16 A When I first arrived, it was wishy-washy. What I</p> <p>17 was telegraphing to Mr. Miller was the need to recruit while</p> <p>18 Mr. Church was still doing his job so that I would get</p> <p>19 permission to recruit so that Mr. Church would have the</p> <p>20 opportunity to hire and train -- or not hire, train his</p> <p>21 replacement so that there would be some overlap. Typically</p> <p>22 we don't get --</p> <p>23 Q Let me rephrase the question.</p> <p>24 A Okay.</p> <p>25 Q So what extent did you --</p>	<p style="text-align: right;">Page 360</p> <p>1 duties from Mr. Church, was that training a detail in the</p> <p>2 sense of -- in the policy sense of the word of 120 days or</p> <p>3 any other time period?</p> <p>4 JUDGE NIEHOFF: That has been asked and answered.</p> <p>5 MR. BRIDENHAGEN: Okay. All right.</p> <p>6 Q (By Mr. Bridenhagen) Let me talk about the</p> <p>7 interview then, but let me start first asking you what are</p> <p>8 your note taking practices?</p> <p>9 A I am a prolific note taker, always have been. I'm</p> <p>10 a trial attorney by trade and have followed the practice of</p> <p>11 taking detailed notes during telephone conversations, during</p> <p>12 the U.S. Trustee meetings and at any other time I keep a pad</p> <p>13 of paper next to my phone with a pen at all times so that</p> <p>14 should I get a call, I'm able to memorialize. I have</p> <p>15 found that keeping detailed notes helps me keep track of what</p> <p>16 has happened, what I need to do and assures that I do not</p> <p>17 ever miss a deadline nor have I ever missed a deadline.</p> <p>18 I would also mention that when U.S. Trustees</p> <p>19 actually miss meetings -- sometimes there's a flight delay --</p> <p>20 I am asked to share my detailed notes with the Executive</p> <p>21 Office and they are then forwarded to the U.S. Trustees so</p> <p>22 that they don't miss anything because I actually type</p> <p>23 everything up when I get back from the U.S. Trustees meetings</p> <p>24 and provide those summaries to my assistant.</p> <p>25 Q And, actually, before we get to talking about the</p>

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<p style="text-align: right;">Page 361</p> <p>1 Interviews, did you take -- did you follow your standard 2 protocol regarding note taking on September 8th of 2008 when 3 Miss Moore called you? 4 A Yes, I did. 5 Q And so are the notes that you took during that 6 interview an accurate recitation of what happened, what was 7 said during the interview? 8 A Yes. 9 Q And you subsequently testified that you spoke to 10 AUST Randolph -- 11 A That's correct. 12 Q -- about the interview? And did you take notes of 13 that interview? 14 A Yeah. 15 Q Of that phone conversation? 16 A Yeah, I wouldn't call it an interview. 17 Q I'm sorry. I just slipped. That phone 18 conversation -- 19 A Correct. 20 Q -- with Mr. Randolph? 21 A Correct. After Miss Moore called to inform me that 22 she and her supervisor were in the process of moving the 23 senior bankruptcy analyst position to the St. Louis office, I 24 first of all reached out to speak with Cindy Beck from our 25 Executive Office and left her a detailed voice mail message</p>	<p style="text-align: right;">Page 363</p> <p>1 Let me check. 2 MR. BRIDENHAGEN: Is it E-8? That's the 3 interview. 4 MR. GARFIELD: I'm sorry. Take it back. 5 JUDGE NIEHOFF: You don't have to put this on the 6 record. 7 (Whereupon there was a discussion off the record.) 8 JUDGE NIEHOFF: We're back on the record. We found 9 the -- 10 Q (By Mr. Garfield) Please turn to Tab E-11 in the 11 report of investigation. 12 JUDGE NIEHOFF: Page? 13 MR. BRIDENHAGEN: Numbered Page 4. 14 A Yes. 15 Q (By Mr. Bridenhagen) Is this -- are these -- is 16 this an accurate copy of the notes that you took that day? 17 A Yes, it appears to be. 18 Q And on the following page is that an accurate copy 19 of the notes you took that same day with Paul Randolph and 20 then immediately under there with Dan Casamatta the following 21 day? 22 A Yes. 23 Q And with respect to your previous testimony on your 24 communications with Paul Randolph and Dan Casamatta on the 25 VTC and the discussions with Nancy -- with Miss Moore are</p>
<p style="text-align: right;">Page 362</p> <p>1 to call me. And then I followed up with AUST Paul Randolph 2 because I wanted to ask are you the supervisor to whom Miss 3 Moore was referring who was in the process of having the 4 senior bankruptcy analyst position relocated to the St. Louis 5 office. And I did take detailed notes during my conversation 6 with Mr. Randolph at that time. 7 Q And they are an accurate representation of your 8 conversation with AUST Randolph? 9 A Yes. He informed me that he had never told Miss 10 Moore that he would help her move the position to the 11 St. Louis office of U.S. Trustee. He did also add that he 12 had spoken with her. In fact, she had approached him before 13 leaving on vacation about her interest in being promoted. 14 She was a GS-14 at the time and he said they would talk about 15 it when she got back from her vacation. 16 I informed Mr. Randolph at the time that there were 17 no GS-15 positions available in the region other than the one 18 that she had applied for, the senior bankruptcy analyst 19 position. 20 Q I'm having trouble finding those notes for some 21 reason. Do you recall where your notes are? 22 A I was going to say I looked at them once already. 23 MR. BRIDENHAGEN: I believe it's -- 24 MS. MOORE: It's eight, E-8. 25 MR. GARFIELD: I think it's in the back of eight.</p>	<p style="text-align: right;">Page 364</p> <p>1 they reflected in that same document at Pages 1 through 37 2 A Yes. After speaking with Miss Moore again I left a 3 message for Cindy Beck to call me. I then received an email 4 from AUST Paul Randolph. He indicated to me that Ms. Moore 5 had just informed him that she had called me. And he said 6 the email indicated that he was available to discuss it 7 whenever I was available again. I did call him. And the 8 conversation is memorialized in the document which I believe 9 was on Page 5, Tab E-11 at the top. 10 Q Okay. I'd like you now to turn to Tab E-8. 11 A Okay. 12 Q These are the questions that you previously 13 testified that were asked during the interviews of both Miss 14 Moore and Miss Carpenter. And particularly with respect to 15 questions numbered -- well, at the very top through number 16 four, were they -- no, excuse me. Number 3. Were the 17 questions asked exactly as written? 18 A I can't say that they were asked exactly as 19 written, but I have a tendency to script my questions ahead 20 of time, so that I get the essence of what I'm trying to 21 elicit from the applicant. So I would say maybe not 22 verbatim, but very close to this. This is how I typically 23 question applicants for any position. 24 Q Now, rather than asking are you familiar with 25 Chapter 13 duties in Number 2 and familiar with the Chapter</p>

91 (Pages 361 to 364)